THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.3286 OF 2006

Dated: 21-02-2006

Between

Padam Chand Jain,

S/o. Late Nimi Chand Jain,

Occ: Business, R/o.23-6-74,

Hari Bowli Road, Hyderabad

and another.

...PETITIONERS

AND

The Assistant City Planner,

Cricle No.1, M.C.H, Sardar

Mahal, Charminar, Hyderabad

and others.

...RESPONDENTS

ORDER:

Petitioners seek a Writ of Mandamus to declare the action of the first respondent dated 17.02.2006 in orally threatening to demolish their mulgies bearing Nos. 23-2-605, 23-2-606 and 23-2-607 situated at Shah Ali Banda Road, Hyderabad as illegal and arbitrary.

Heard the learned counsel for the petitioners as well as the learned standing counsel for the respondents.

Learned counsel for the petitioners submits that the petitioners are the tenants of the aforementioned properties since a very long time. The learned counsel further submits that the third respondent, who purchased the said premised vide registered sale deed dated 07.06.1996, has given consent to the respondent corporation for demolition of the said premises for road widening and thereafter the respondents are threatening to demolish the shops of the petitioners. The main grievance of the petitioners is that the respondents have not issued any notice before deciding to demolish the said shops and they are trying to demolish the shops for the purpose of widening the road without acquiring the property as contemplated under Chapter V of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act') or under the Land Acquisition Act, without following due procedure prescribed under law, which action is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Act.

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of a number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law or private negotiations.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the premises of the petitioners or dispossess them without following due process of law either under Section 146 or under Section 147 of the Act or by way of private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

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V. ESWARAIAH, J

February 21, 2006

Note: Furnish C.C. of the order by 22.02.2006

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